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Paper No. 13

**MAIL**

APR 29 2004

DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600

DECISION ON PETITION

INTELLECTUAL PROPERTY LAW OFFICE  
1901 S. BASCOM AVENUE, SUITE 660  
CAMPBELL CA 95008

In re Application of  
R. E. Fontana, et al.  
Application No. 09/638,663  
Filed: August 14, 2000  
For: **PLANAR MAGNETIC HEAD**

This is a decision on the Petition filed August 28, 2003, which is being treated under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment. No fee is required.

The application was held abandoned for failure to respond in a timely manner to the Final Office Action mailed on October 23, 2002. The application became abandoned when no further response was received. A Notice of Abandonment was mailed July 1, 2003.

Petitioner alleges to have timely filed a proper response to the Final Office Action on January 21, 2003. To support this position, Petitioner has included with the instant petition, a copy of the Final Office Action mailed October 23, 2002; Declaration of Patricia Beilmann; Declaration of Elizabeth Quijano and Declaration of Vivian M. Emberley.

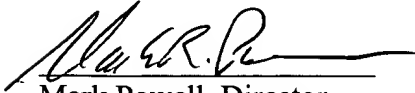
While the response to the Final rejection has been deemed to be timely filed, petitioner should note that a proper response to a Final Office action must consist of either an amendment which places the case in condition for allowance, a Notice of Appeal, or the filing of a continuation application. See 37 CFR 1.113 and 1.116. The application was forwarded to the examiner to determine if the response filed January 21, 2003 places the application in condition for allowance. The examiner determined that the After Final Response filed January 21, 2003 failed to place the application in condition for allowance as set forth in an Advisory Action, a copy of which is enclosed with this decision.

Accordingly, the petition is **DENIED**.

The application is being returned to the abandoned files repository.

Any request for reconsideration including necessary evidence must be submitted within TWO (2) Months from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted. The reconsideration request should be a cover letter entitled "Renewed petition to Withdraw the Holding of Abandonment." This is not a final agency action within the meaning of 5 USC 704.

Alternatively, petitioner may file a petition to revive under 37 C.F.R. 1.137.

A handwritten signature in black ink, appearing to read 'Mark Powell', is written over a horizontal line.

Mark Powell, Director  
Technology Center 2600  
Communications

Enclosure: Advisory Action

**Advisory Action**

Application No.

09/638,663

Applicant(s)

FONTANA ET AL.

Examiner

A. J. HEINZ

Art Unit

2653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED \_\_\_\_\_ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: APPLICANT HAS ADDED LIMITATIONS TO INDUCTION COILSTRUCTURE.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

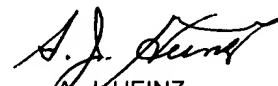
Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 11-18.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
A. J. HEINZ  
Primary Examiner  
Art Unit: 2653